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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,003

09/29/2006

Robert Riener

RIENER-2

3970

20151 7590 04/02/2008
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EXAMINER

CARLOS, ALVIN LEABRES

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

04/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,003	Applicant(s) RIENER ET AL.	
	Examiner ALVIN L. CARLOS	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/29/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "and/or" renders the claim indefinite because the claim limitation is not clear whether the claimed limitations have a force or pressure sensor or combination of both as thereby rendering the scope of the claim unascertainable.

Claim Objections

3. Claim 19 is objected to because of the following informalities: Claim 19 is dependent on claim 1 which is canceled as filed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 8-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Eggert 6503087.

Re claim 8, Eggert teaches a birth simulator comprising a base 14 (see figure 4, column 2 lines 48-49), a womb torso 325 joined to the base said womb torso having an flexible abdominal wall (see figure 6, column 8 lines 11-14), a child model placed inside the womb torso (see figure 4, column 7 lines 31-34), a sensor arrangement connecting the child model to the base to measure of a force and a torque applied by an examining individual either directly to the child model manually or by using medical instruments, or indirectly via the flexible abdominal wall (column 3 lines 30-36), a programmable evaluation device receiving a measurement signal from the sensor arrangement and transforming the measurement signal into an image signal (column 2 lines 63-67 and column 3 lines 1-21), and a display which renders the image signal as a simulation of a natural movement which a natural child would exhibit in the womb of a mother in response to the exerted force or torque during a medical examination or during natural child birth (see figure 12, column 12 lines 16-26).

Re claim 9, Eggert teaches the image signal is rendered in real time, in a slow motion or in a time compression mode (column 3 lines 57-67 and column 4 lines 1-13).

Re claim 10, Eggert teaches the child model and the womb torso are constructed so as to match a shape and size of a natural body (see figure 4 and 6, column 7 lines 24-30).

Re claim 11, Eggert teaches a haptic feedback to the examining individual (column 3 lines 13-15).

Re claim 12, Eggert teaches the child model is detachably connected to the sensor arrangement (see figure 10, column 10 lines 51-60).

Re claim 13, Eggert teaches the womb torso including a swingable flap for opening and closing (See figure 4 and 5a, column 7 lines 55-58).

Re claim 14, Eggert teaches the child model is adapted for connection to the sensor arrangement in different positions (column 9 lines 8-14).

Re claim 15, Eggert teaches a sound generator connected to the evaluation device for generating sounds based on the measurement signal, wherein the generated sounds resemble sounds produced by the mother or child or by medical instruments during natural child birth (column 3 lines 16-21).

Re claim 16, Eggert teaches the sound generator is arranged inside the womb torso or the child model, or both (column 6 lines 58-67 and column 7 lines 1-9).

Re claim 17, Eggert teaches the evaluation device produces output signals for rendering on the display operating instructions, simulated physiologic values, device outputs and alarms (see figure 12, column 12 lines 16-44).

Re claim 18, Eggert teaches the sensor arrangement includes a force and/or pressure sensor made of deformable segments and arranged in the neck region or skullcap region of the child model (column 4 lines 44-67 and column 5 lines 1-13).

Re claim 19, Eggert teaches the sensor arrangement comprising a force and/or pressure sensor made of deformable segments and arranged in the neck region or skullcap region of the child (see figure 10, column 10 lines 52-67 and column 11 lines 1-11).

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 8-19 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 7241145. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

Present claims 8 and 9 are obvious over prior art claims 1 and 3.

Present claim 10 is obvious over prior art claim 1.

Present claim 11 is obvious over prior art claim 1.

Present claims 12 and 14 are obvious over prior art claims 1 and 2.

Present claim 13 is obvious over prior art claim 1.

Present claim 15 is obvious over prior art claims 1 and 5.

Present claims 16 and 17 are obvious over prior art claims 1 and 6.

Present claims 18 and 19 are obvious over prior art claims 1 and 7.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as per the attached Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALVIN L. CARLOS whose telephone number is (571)270-3077. The examiner can normally be reached on 7:30am-5:00pm EST Mon-Fri (alternate Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alvin L Carlos/

Examiner, Art Unit 3714

March 27, 2008

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3714